

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBER: A05-60156-PWB
	:	
TRICIA B. JORDAN,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
Debtor.	:	BANKRUPTCY CODE

**ORDER CONTINUING CONFIRMATION HEARING AND ORDER AND NOTICE
TO COUNSEL FOR DEBTOR AND COUNSEL FOR MACO EDUCATORS FEDERAL
CREDIT UNION**

A specially set evidentiary hearing on confirmation of Debtor's plan was scheduled for April 19, 2005, at 2:00 p.m. This hearing date was selected and notice was given to counsel for Debtor and counsel for Maco Educators Federal Credit Union ("Maco") at the originally scheduled confirmation hearing on March 16, 2005. The hearing on confirmation was continued so that Debtor could respond to Maco's discovery requests which had been served only five days earlier, and so that Maco's counsel could review the documents which the Debtor would provide. When asked by the Court how much time the parties would need to prepare for the hearing, Debtor's counsel replied that he would prefer to keep this matter on a "fast track" for purposes of scheduling the evidentiary hearing. Maco's attorney did not oppose this request.

On April 18, 2005, at 5:53 p.m., Maco's counsel filed a "Motion for Continuance" and scheduled the matter for a hearing on April 19, 2005, at 2:00 p.m. The basis for the continuance request is that Debtor served documents in response to the discovery request on April 11, 2005, and that counsel "needs more time to analyze the documents and conduct a 2004 deposition." In a motion filed the same day, counsel requests that the Court enter an Order permitting him to conduct a Rule 2004 examination of the Debtor on April 28, 2005.

On the morning of April 19, 2005, Maco's counsel left a voicemail message for the

Court's courtroom deputy clerk regarding the continuance request, seemingly under the impression that by notifying the Court that the Debtor did not oppose the continuance, his motion would be granted. Thus, counsel ignored BLR 5071-1, NDGa, which provides that a continuance "will be granted only on the basis of exceptional circumstances" and that "[n]o such continuance will be granted on stipulation of counsel alone, but shall require an order of the Bankruptcy Court." Apparently, counsel felt no need to contact the Chapter 13 Trustee regarding the continuance, because she contact Chambers approximately two hours later to determine whether the hearing remained on the Court's calendar. The Court will grant the continuance, but it does so only after making the following observations.

While evidentiary hearings are not always necessary in chapter 13 confirmation matters, when they are necessary, the Court is happy to set aside a block of time well in advance so that parties may prepare. The Court's calendar is not without limits, however. When the Court blocks out half a day for an evidentiary hearing in a case at the parties request, that is time on the calendar that is unavailable for hearings in other cases. Professionalism dictates that if the parties settle their dispute or need a further continuance, that they contact the Court in advance of the hearing. Filing a motion at 5:53 p.m. the day before the specially set hearing and then calling the Court's clerk less than four hours before the hearing and "advising" her of the continuance is not acceptable and is in contravention of the local rules of this Court. While the Court will be here one way or another whether a hearing is held or not, the presumption that other parties are not affected, including the Chapter 13 Trustee and the court reporter, illustrates an indifference to the value of other persons' time and schedules that the Court will not tolerate. Accordingly, it is

ORDERED that the motion for continuance of confirmation is granted. An evidentiary hearing on confirmation of this case shall be held on May 24, 2005, at 2:00 p.m., in Courtroom

1401, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia. It is

FURTHER ORDERED that counsel for Debtor and counsel for Maco Educators Federal Credit Union are directed to show cause at such hearing why either or both of them should not be required to pay the fee incurred by the Court for the unnecessary services of the court reporter reserved for April 19, 2005.

The Clerk is directed to serve copies of this Order on the persons on the attached Distribution List.

At Atlanta, Georgia, this _____ day of April, 2005.

PAUL W. BONAPFEL
UNITED STATES BANKRUPTCY JUDGE

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